

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES,
 Plaintiff,

v.

WADE MALHAS,
 Defendant.

Case No. 19-cv-03709-BLF

**ORDER REGARDING MOTION TO
 APPOINT GUARDIAN AD LITEM**

[Re: ECF No. 45]

Before the Court is the Government's consent motion to appoint a guardian ad litem or issue another appropriate order pursuant to Federal Rule of Civil Procedure 17(c). ECF No. 45. The Government requests that the Court, through its Federal Pro Bono Program, identify an appropriate guardian ad litem to represent the interests of Defendant Wade Malhas, who the parties agree suffers from dementia and cannot communicate with counsel. In the alternative, the Government asks the Court to make a referral for a conservatorship or similar arrangement to the Orange County Public Guardian.

Federal Rule of Civil Procedure 17(c) states that "[t]he court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action." Courts may seek a guardian ad litem through pro bono programs, bar associations, law school clinical programs, or other organizations providing relevant services. *See Davis v. Walker*, 745 F.3d 1303, 1311 (9th Cir. 2014). Here, the Court's resources through its Federal Pro Bono Program are limited to seeking pro bono counsel, not guardians ad litem. Accordingly, Mr. Malhas' interests need to be represented through a guardian ad litem or other mechanism identified through other means, such as the Orange County Public Guardian mentioned in the Government's motion.

1 Because the Court has not yet relieved current counsel for Mr. Malhas, IT IS HEREBY
2 ORDERED that current counsel for Mr. Malhas SHALL submit a referral for a guardian ad litem
3 or conservator of Mr. Malhas' estate regarding this lawsuit to the Orange County Public Guardian.
4 The parties SHALL file a joint status update **no later than May 20, 2022** informing the Court of
5 the progress of the referral. This case will remain STAYED until a mechanism for representing
6 Mr. Malhas' interests can be identified through the referral or other means.

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8 Dated: March 18, 2022


BETH LABSON FREEMAN
United States District Judge